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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,604	09/26/2003	Tetsuro Motoyama	240204US28	1499
22850	7590	06/16/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER SIKRI, ANISH	
			ART UNIT 2443	PAPER NUMBER
			NOTIFICATION DATE 06/16/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/670,604

Applicant(s)

MOTOYAMA, TETSURO

Examiner

ANISH SIKRI

Art Unit

2443

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13,15-25 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-13,15-25 and 27-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 2, 14, 26 are cancelled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1,3, 5-13, 15, 17-25, 27, 29-36 are rejected under 35 U.S.C. 103 (a), as being unpatentable over Babu et al (US Pat 6,122,639), hereafter known as Babu, in further view of Cooper et al (US Pub 20040015579), hereafter known as Cooper.

Consider Claim 1, Babu disclosed the method of storing information configured to be used for a plurality of communication protocols (Babu, Col 6 Lines 34-40, Babu disclosed the multiple protocols used on the network) to access a monitored device by a monitoring computer among distinct devices communicatively coupled to a network (Babu, Col 2 Lines 62-67, Col 3 Lines 1-4, Babu disclosed on devices in the network are monitored, and how information from the devices is collected), retrieving by the monitoring computer, information for accessing the monitored device using at least one communication protocol supported by the monitored device (Babu, Col 7 Lines 35-37, Babu shows on how SNMP protocol is supported); storing by the monitoring computer, the information for accessing the monitored device (Babu, Col 7 Lines 10-19, Babu disclosed on how information is collected and stored from the devices which are being monitored by the monitoring system), selecting by the monitoring computer a communication protocol among the plurality of communication protocols, the monitored device being configured to process two or more of the plurality of communication

protocols (Babu, Col 6 Lines 34-40, Babu disclosed multiple protocols used on the network) and accessing the monitored device using the selected communication protocol and the information retrieved from and stored by the monitoring computer (Babu, Col 2 Lines 62-67, Col 3 Lines 1-10).

But Babu does not explicitly disclose the first memory external to the monitoring computer and different than the monitored device; and wherein the first memory is organized according to the plurality of communication protocols, and the plurality of communication protocols are associated with corresponding information for accessing the monitored device;

Nonetheless, Cooper discloses first memory external to the monitoring computer and different than the monitored device (Cooper, Fig 1A, [0115]-[0116], Cooper discloses a database which data which the monitoring component can query for further processing); and wherein the first memory is organized according to the plurality of communication protocols (Cooper, [0249], Cooper discloses that all protocol related data is stored in the database, which can referenced later for additional queries), and the plurality of communication protocols are associated with corresponding information for accessing the monitored device (Cooper, [0249], Cooper disclosed that all protocol related information is logged and stored).

Both Babu-Cooper disclose features related to monitoring environments. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore, it would have been obvious to a person skilled in the art at the time of the invention was made to incorporate the use of external memory(s) to store/access information of monitored devices, taught by Cooper, in the system of Babu for the purpose of creating an efficient and robust monitoring system environment.

But Babu does not explicitly disclose wherein the monitored device uses two or more communication protocols to report the state information to the monitoring computer.

Nonetheless, it is rejected under obviousness as known common in the art, that a since a device can communicate with multiple protocol taught by Babu (Babu, Col 6 Lines 34-40, Babu disclosed multiple protocols used on the network), it would be able to communicate with two or more protocols explicitly.

Therefore the amended limitation is rejected via obviousness as even Babu discloses communication via other protocols such as SNMP and HTTP and others is possible, it would be common in the art to use one protocol to exchange data, then any computer/device should be capable of using two or more protocols to exchange data.

Consider Claim 3, Babu-Cooper disclosed method of claim 1, wherein the selecting step comprises: selecting a communication protocol among SNMP, HTTP, and FTP (Babu, Col 7 Lines 35-37, Babu shows on how SNMP protocol is supported).

Consider Claim 5, Babu-Cooper disclosed the method of claim 1, wherein the retrieving step comprises: retrieving, from the first memory (Babu, Col 6 Lines 48-50), at least one of a community name and a password for accessing the monitored device using SNMP (Babu, Col 7 Lines 65-67, Col 8 Lines 1-7).

Consider Claim 6, Babu-Cooper disclosed the method of claim 1, wherein the retrieving step comprises: retrieving, from the first memory (Babu, Col 7 Lines 65-67, Col 8 Lines 1-7, Babu disclosed on how the information is retrieved from the device),

Babu does not explicitly state on obtaining an IP address of the monitored device.

But, Babu disclosed that it gathers information from many different network devices, including hardware and software information (Babu, Col 13 Lines 14-20, Col 16 Table 5 and 6).

Therefore, it would have been obvious to a person skilled in the art at the time of the invention was made to incorporate the use of obtaining IP addresses from the monitored devices by the network management system, taught by Babu.

Consider Claim 7, Babu-Cooper disclosed the method of claim 1, wherein the second memory comprises a vector of parameter name and parameter value pairs for each of the plurality of communication protocols (Babu, Col 11 Lines 60-63, Babu disclosed that MIB object is a vector object, as MIB object sets contain values of the

devices).

Consider Claim 8, Babu-Cooper disclosed the method of claim 1, wherein the storing step comprises: storing the information for accessing the monitored device in a device software object associated with the monitored device (Babu, Col 13 Lines 14-20, Babu disclosed that it does retrieve software related information from the devices).

Consider Claim 9, Babu-Cooper disclosed the method of claim 8, wherein the device software object is stored in a random-access memory unit of the monitoring computer (Babu, Col 6 Lines 53-64, Babu disclosed the use of memory).

Consider Claim 10, Babu-Cooper disclosed the method of claim 1, wherein the retrieving step comprises: accessing the first memory using virtual functions associated with an abstract software class (Babu, Col 5 Lines 38-44).

Consider Claim 11, Babu-Cooper disclosed the method of claim 1, wherein the accessing step comprises: transmitting to the monitored device (Babu, Col 7 Lines 35-40), information stored in the second memory necessary to access the monitored device using the selected communication protocol (Babu, Col 8, Lines 25-33, Babu disclosed on how the device is identified by comparing the information stored at the collection engine, and the information stored on the device).

Consider Claim 12, Babu-Cooper disclosed the method of claim 11, wherein the accessing step comprises: receiving, by the monitored device (Babu, Col 7 Lines 35-40), the transmitted information; and processing, by the monitored device, the received information (Babu, Col 8, Lines 25-33, Babu disclosed on how the device is identified by comparing the information stored at the collection engine, and the information stored on the device).

Claims 13, 15, 17-24, have similar limitations as to claims 1, 3, 5-12 respectively; therefore they are rejected under the same rational as claims 1, 3, 5-12 respectively.

Claims 25, 27, 29-36, have similar limitations as to claims 1, 3, 5-12 respectively; therefore they are rejected under the same rational as claims 1, 3, 5-12 respectively.

Claims 4, 16, and 28 are rejected under 35 U.S.C. 103 (a), as being unpatentable over Babu et al (US Pat 6,122,639), in view of Cooper et al (US Pub 20040015579), hereafter known as Cooper, and further in view of Brunemann et al (US Pat 6,487,717) hereafter known as Brunemann.

Consider Claim 4, Babu-Cooper disclosed the method of claim 1, wherein the retrieving step comprises: retrieving information, from the first memory of the monitored device (Babu, Col 7 Lines 65-67, Col 8 Lines 1-7, Babu disclosed on how the information is retrieved from the device)

But Babu-Cooper does not explicitly state the use of least one of a username and a password for accessing the monitored device using FTP.

Nonetheless, Brunemann et al disclosed on the use of least one of a username and a password (Brunemann et al, Col 7 Lines 14-16) for accessing the monitored device using FTP (Brunemann et al, Col 6 Lines 8-16).

Both Babu-Cooper-Brunemann et al provide features related to communication in the network with the use of network management system monitoring devices/systems. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore, it would have been obvious to a person skilled in the art at the time of the invention was made to incorporate the use of network management systems using FTP access to the devices/systems/clients to access and retrieve information from them, taught by Brunemann et al, in the system of Babu-Cooper for the purpose of monitoring of systems/devices in the network.

Claim 16 has similar limitations as Claim 4, therefore it is rejected under the same rational as Claim 4.

Claim 28 has similar limitations as Claim 4, therefore it is rejected under the same rationale as Claim 4.

Response to Arguments

Applicant's arguments filed 3/27/2009 have been fully considered but they are not persuasive.

For Claim 1, Applicant argues that Babu does not disclose that a monitoring device uses two or more communication protocols, and Babu only teaches that the device uses one protocol. But it is common in the art if the device can communicate with one protocol, it would be obvious to a person skilled in the art to make the invention be able to communicate with two or more protocols (multiple protocols). And in Babu, it does state the device can communicate via HTTP connection along with SNMP connection (Babu, Col 6 Lines 17-32). Applicant is advised to contact the Examiner if questions persist.

Applicant argues that Cooper does not describe "monitored devices". Examiner states that Cooper does indeed teach the use of "monitored devices". In Cooper's claims 1, 5, 6 clearly state the use of a monitored device in the system. Further support can be seen in Cooper's specification in [0130]-[0134].

Related Cases: US Pat 7188151

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANISH SIKRI whose telephone number is 571-270-1783. The examiner can normally be reached on 8am - 5pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anish Sikri
a.s.

6/5/09

/George C Neurauter, Jr./

Primary Examiner, Art Unit 2443